

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

STATE OF TEXAS,

Plaintiff,

v.

MERRICK GARLAND, *et al.*,

Defendants.

No. 5:23-cv-34-H

**TEXAS’S MOTION TO EXCLUDE DEFENDANTS’ EXHIBITS 2, 3, 4, 7, 8,
11, AND 15**

EXHIBIT E

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

STATE OF TEXAS,

Plaintiff,

v.

MERRICK GARLAND, in his official capacity as
Attorney General, *et al.*,

Defendants.

Case No. 5:23-cv-00034-H

DECLARATION OF ROBERT FARMER

I, Robert Farmer, state as follows:

1. I am the Deputy Assistant Administrator for the Office of Enterprise Grant Services within the Grant Programs Directorate (GPD) of the Federal Emergency Management Agency (FEMA), a component agency of the Department of Homeland Security (DHS). I have served in this capacity since July 3, 2022. I make this declaration in my official capacity, based on my personal knowledge and upon information that has been provided to me in the course of my official duties.

2. Previously, I served as the acting head of GPD's Office of Enterprise Grant Services from January 13, 2022, until July 2, 2022. During that time, my title was Senior Policy Advisor. Prior to that, I served as the Acting Deputy Administrator of GPD from August 3, 2020, until January 12, 2022.

3. I am the head official in the Office of Enterprise Grant Services within GPD, which is responsible for providing FEMA grant programs with consistent policies and guidance; technical innovation through the consolidation and modernization of FEMA's disparate grant systems into the new FEMA Grants Outcomes (FEMA GO) grant management platform; and risk reduction through monitoring and compliance with applicable grant administration laws, regulations, policies, and internal controls.

DEFENDANTS'
EXHIBIT

DX-008

4. My staff and I are responsible for coordinating with DHS and other FEMA program offices regarding grant management documents and requirements, including annual updates of federal assistance listings; the development and issuance of Notices of Funding Opportunity (NOFOs); updates to the terms and conditions that are ultimately incorporated into the grant awards that FEMA issues; coordination of monitoring and compliance with grant administration laws, regulations, policies, and internal controls; as well as development or management of grant management systems, among other matters.

5. I am familiar with the development of the Alternatives to Detention Case Management Pilot Program (CMPP) and the program's current status. The Office of Enterprise Grant Services is the responsible entity within FEMA for coordinating with the DHS Office for Civil Rights and Civil Liberties (CRCL) to review and ensure the proper routing of NOFOs, including CMPP NOFOs. A NOFO serves as the official announcement of the availability of funding through a federal assistance program and contains information regarding eligibility criteria, funding priorities, required application materials and deadlines, the evaluation and scoring process, as well as certain terms and conditions a recipient agrees to when it accepts an award.

6. As part of the 2021 Consolidated Appropriations Act, Congress appropriated \$5,000,000 from the Department of Homeland Security's Office of the Secretary and Executive Management Federal Assistance funding to be transferred to FEMA for CMPP. The purpose of CMPP is to fund case management services for individuals enrolled in the U.S. Immigration and Customs Enforcement's (ICE) Alternatives to Detention program.

7. The 2021 Consolidated Appropriations Act specified that the funding must be administered by a National Board that is chaired by the Officer for CRCL at DHS. The 2022 and 2023 Consolidated Appropriations Acts also appropriated funding for this program and retained the

same program structure. Therefore, FEMA's primary role in CMPP is to administer the funds to the National Board.¹

8. After the 2021 Consolidated Appropriations Act was issued, FEMA worked with CRCL to develop the FY 2021 CMPP NOFO. This NOFO was issued by FEMA on June 28, 2022. *See* Exh. A. Consistent with the requirements of the 2021 Consolidated Appropriations Act that the National Board administer and award CMPP funds to subrecipients, the NOFO listed the Case Management Pilot Program National Board as the only eligible recipient.

9. The National Board submitted its application on August 17, 2022. FEMA awarded the National Board the full \$5,000,000 on August 31, 2022 (*see* Exh. B), and the National Board accepted the award on September 7, 2022.

10. FEMA was not involved in the National Board's selection of subrecipients for FY 2021 CMPP funding. The National Board ran its own application process and voted on which nonprofit organizations and/or local governments would receive funding and in what amount, in accordance with the 2021 Appropriations Act.

11. Congress appropriated an additional \$15,000,000 for CMPP in the 2022 Consolidated Appropriations Act. In the 2022 Appropriations Act, Congress specified that the funds must be awarded to the National Board by September 30, 2023. FEMA released a NOFO for the FY 2022 funding on April 26, 2023, which provided the National Board an application submission deadline of May 26, 2023. FEMA will not award funds for the FY 2022 CMPP until the National Board has applied and FEMA has reviewed and approved its application. FEMA will not be involved in the National Board's selection of subrecipients for FY 2022 CMPP funding.

¹ FEMA also ensures the proper routing of CMPP NOFOs, provides coordination of financial and programmatic monitoring for CMPP grants, assesses the effectiveness of internal controls for CMPP grants, and maintains the grant technology system CMPP uses.

12. Congress appropriated an additional \$20,000,000 for CMPP in the 2023 Consolidated Appropriations Act. In the 2023 Appropriations Act, Congress specified that the funds must be awarded to the National Board by September 30, 2024. FEMA has not yet issued a NOFO to award the FY 2023 funding. FEMA will not award funds for the FY 2023 CMPP until after the NOFO has been issued, the National Board has applied, and FEMA has reviewed and approved its application. FEMA will not be involved in the National Board's selection of subrecipients for FY 2023 CMPP funding.

13. To date, the \$5,000,000 from the 2021 Appropriations Act are the only CMPP funds FEMA has awarded to the National Board. Consequently, no nonprofit organization or local government subrecipient has received any funds from the 2022 or 2023 Appropriations Acts under CMPP.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 3, 2023 in Washington, D.C.



Robert A. Farmer

Deputy Assistant Administrator, Office of Enterprise Grant Services

Grant Programs Directorate

Federal Emergency Management Agency